

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) AMY DAVIS,	)	
	)	
Plaintiff,	)	
	)	Case No. 16-CIV-554-HE
vs.	)	
	)	
	)	
(1)AMERICAN FAMILY LIFE	)	
ASSURANCE COMPANY OF	)	
COLUMBUS d/b/a AFLAC,	)	
	)	
Defendant.	)	

**JOINT STATUS REPORT AND DISCOVERY PLAN**

Date of Conference: August 3, 2016

Appearing for Plaintiff: Simone G. Fulmer and Jacob L. Rowe

Appearing for Defendant: Sean H. McKee and Jessica L. Johnson

**Jury Trial Demanded ☒ - Non-Jury Trial ☐**

1. **BRIEF PRELIMINARY STATEMENT.**

Plaintiff, Amy Davis ("Mrs. Davis") has sued Defendant American Family Life Assurance Company of Columbus d/b/a AFLAC ("AFLAC") for breach of contract and bad faith. Defendant AFLAC denies Plaintiff's claims.

2. **JURISDICTION.** Diversity jurisdiction pursuant to 42 U.S.C. § 1332.

3. **STIPULATED FACTS.**

- a. On, or about, June 18, 2015, Mrs. Davis applied for a Cancer Policy with AFLAC.
- b. Based upon information provided in the application, and application process, AFLAC issued Mrs. Davis a Cancer Policy, Policy No. P0J3C1W3, effective as of July 23, 2015.

4. **CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.**

a. **Plaintiff:** Plaintiff is seeking damages for AFLAC's bad faith conduct with regard to Mrs. Davis as provided in OUJI 22.4, including damages for mental pain and suffering.

b. **Defendant:** AFLAC denies that it is in breach of contract. AFLAC has paid all benefits due to Mrs. Davis under the Cancer Policy. Further, AFLAC denies that it acted in bad faith in its dealings with Mrs. Davis.

5. **APPLICABILITY OF FED. R. CIV. P. 5.1 AND COMPLIANCE.**

Do any of the claims or defenses draw into question the constitutionality of a federal or state statute where notice is required under 28 U.S.C. § 2403 or Fed. R. Civ. P. 5.1?

✓ Yes ☐ No

6. **MOTIONS PENDING AND/OR ANTICIPATED.** Defendant AFLAC anticipates filing a Motion for Summary Judgment. The parties further anticipate Motions in Limine to be filed. All motions will be filed in accordance with this Court's Scheduling Order.

7. **COMPLIANCE WITH RULE 26(a)(1).** Have the initial disclosures required by Fed. R. Civ. P. 26(a)(1) been made? ☐ Yes ☒ No  
If "no," by what date will they be made? August 3, 2016

8. **PLAN FOR DISCOVERY.**

A. The discovery planning conference (Fed. R. Civ. P. 26(f)) was held on July 8, 2016.

B. The parties anticipate that discovery should be completed within nine (9) months.

C. In the event ADR is ordered or agreed to, what is the minimum amount of time necessary to complete necessary discovery prior to the ADR session? Seven (7) months.

- D. Have the parties discussed issues relating to disclosure or discovery of electronically stored information, including the form or forms in which it should be produced, pursuant to Fed. R. Civ. P. 26(f)(3)(C)?

✓ Yes ☐ No

- E. Have the parties discussed issues relating to claims of privilege or of protection as trial-preparation material pursuant to Fed. R. Civ. P. 26(f)(3)(D)?

✓ Yes ☐ No

To the extent the parties have made any agreements pursuant to Fed. R. Civ. P. 26(f)(3)(D) and Fed. R. Civ. P. 502(e) regarding a procedure to assert claims of privilege/protection after production and are requesting that the court include such agreement in an order, please set forth the agreement in detail below and submit a proposed order adopting the same.

The parties agree that if any documents or items that are protected by the work product doctrine, attorney client privilege, or any other privilege are inadvertently produced, the parties will immediately notify the opposing party, and destroy or return any such items.

- F. Identify any other discovery issues which should be addressed at the scheduling conference, including any subjects of discovery, limitations on discovery, protective orders needed, or other elements (Fed. R. Civ. P. 26(f)) which should be included in a particularized discovery plan.

The parties anticipate the need for appropriate protective orders.

9. **ESTIMATED TRIAL TIME:** 3-4 days

10. **BIFURCATION REQUESTED:** ☐ Yes ✓ No

11. **POSSIBILITY OF SETTLEMENT:** ☐ Good ✓ Fair ☐ Poor

12. **SETTLEMENT AND ADR PROCEDURES:**

A. Compliance with LCvR 16.1(a)(1) - ADR discussion: ✓ Yes ☐ No

B. The parties request that this case be referred to the following ADR process:

- ☐ Court-Ordered Mediation subject to LCvR 16.3
- ☒ Judicial Settlement Conference
- ☐ Other \_\_\_\_\_
- ☐ None - the parties do not request ADR at this time.

13. Parties consent to trial by Magistrate Judge? ☐ Yes ☒ No
14. Type of Scheduling Order Requested. ☒ Standard - ☐ Specialized (If a specialized scheduling order is requested, counsel should include a statement of reasons and proposal.)

Submitted this 25th day of July, 2016.

/s/Simone Gosnell Fulmer  
Simone Gosnell Fulmer, OBA #17037  
Jacob L. Rowe, OBA #21797  
Harrison C. Lujan, OBA #30154  
FULMER GROUP, PLLC  
P.O. Box 2448  
1101 N. Broadway Ave., Suite 102  
Oklahoma City, OK 73101  
Phone/Fax: (405) 510-0077  
[sfulmer@fulmergrouplaw.com](mailto:sfulmer@fulmergrouplaw.com)  
[jrowe@fulmergrouplaw.com](mailto:jrowe@fulmergrouplaw.com)  
[hlujan@fulmergrouplaw.com](mailto:hlujan@fulmergrouplaw.com)  
**ATTORNEYS FOR PLAINTIFF**

/s/Jessica L. Johnson  
Sean H. McKee, OBA #14277  
[smckee@bestsharp.com](mailto:smckee@bestsharp.com)  
Jessica L. Johnson, OBA #31851  
[jjohnson@bestsharp.com](mailto:jjohnson@bestsharp.com)  
Best & Sharp  
Williams Center Tower I  
One West Third Street, Suite 900  
Tulsa, OK 74103  
Telephone: (918) 582-1234  
Facsimile: (918) 585-9447  
**ATTORNEYS FOR DEFENDANT**